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Minutes of the 117th meeting of the Board of the EHRC

20 March 2024 (09:30 to 16:00)
9th floor, Windsor House, 50 Victoria Street, London SW1H 0TL

Attending

Commissioners

Kishwer Falkner (Chairwoman), Lesley Sawers (Interim Deputy Chair), Jess Butcher, Joanne Cash, David Goodhart, Alasdair Henderson, Kunle Olulode, Akua Reindorf (item 1 to 10), Su-Mei Thompson

Board Attendees

Martyn Jones, Acting Chair of Wales Committee
Adam Tomkins, Scotland Committee Member (V) (item 13)

Officers

Cath Denholm, Interim Chief Executive
John Kirkpatrick, Deputy Chief Executive
Moya Alcock, Director of Communications
Cihan Altan, Chief of Staff
Bill Malloy, Director of Finance, Governance and Planning
Victoria Mearns, Corporate Governance
Amanda Topham, Head of Corporate Law and Information Governance
Beverley Reid, Head of Business Improvement (item 11)
Will Taylor, Head of Strategy (items 12, 15 and 16)
Anna Boaden, Director of Policy, Three Nations and Human Rights Monitoring (items 12 and 13)
Adam Sowerbutts, Director of Legal (items 12 and 14)
Martin Crick, Director of Regulation (item 14)

Guests

Helen Anderson, Government Equality Hub

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1. Chairwoman's welcome and apologies

1.1 The Chairwoman welcomed attendees to the meeting.

1.2 Apologies were received from Akua Reindorf from item 11 onwards.

2. Declarations of interest

2.1 Kunle Olulode declared an interest with regards to the Commission's Approach to Regulating AI paper as he was a member of the Commission on Race and Ethnic Disparities.

2.2 Akua Reindorf declared an interest with regards to the CEO report due to professional work with a political party and recused herself during discussion on this.

3. Minutes of the 116th Board meeting and 15 February Extraordinary Board meeting

3.1 The Board approved the minutes of the meeting of 24 January as an accurate record, subject to minor terminology amendments.

3.2 The Board approved the minutes of the 15 February extraordinary Board meeting, subject to a minor amendment to paragraph 2.7.

4. Actions Arising

4.1 The Board noted the action log.

4.2 The Chairwoman advised she is content that everything on the action log is in hand and will be covered at this or future meetings.

5. Decisions by Correspondence

5.1 [Redacted due to confidentiality].

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6. Committee and Commissioner Working Group updates

6.1 The Board noted the Committee and Commissioner Working Group update papers.

6.2 The Audit and Risk Assurance Committee (ARAC) Chair noted that ARAC Members would like to highlight to the Board the risk regarding the current Accounting Officer's term ceasing at the end of the financial year, and urged that a new accounting officer is appointed timeously. He also advised that recruitment would commence for a new independent ARAC member in the new financial year.

6.3 Regarding the People and Workspace Committee update, the Chairwoman raised that three Wales Committee Members had not yet completed the anti-bullying and harassment training. The Wales Committee Chair assured that they would complete the training virtually as soon as possible.

6.4 The Acting Wales Committee Chair advised that Vaughan Gething has been appointed as the new Labour Party leader in Wales. He suggested that a meeting be arranged with the Wales First Minister, Wales Committee Members and the Chairwoman when possible.

Action: Meeting with Wales First Minister, Wales Committee Members and the Chairwoman to be arranged.

7. CEO Report and Chairwoman's update

7.1 The Board noted the CEO report and agreed to extend the Acting Wales Chair's membership of the Committee and term as Chair of the Committee to 30 November 2024.

7.2 The Board welcomed the new format of the CEO report overall and made a number of requests for further minor improvements to format and content, which were noted.

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7.3 The Interim Chief Executive highlighted the successful negotiation of the pay award with our trade unions, noting that everyone had received at least 4%, with further variations of between 4.25% or 5%, with lowest paid grades receiving the highest increase.

7.4 A Commissioner requested further and more frequent reporting on social media coverage, which the Director of Communications advised she would be able to provide.

Action: Director of Communications to provide further reporting on social media coverage for Commissioners to view.

7.5 The Wales Commissioner and Scotland Commissioner agreed that the Wales and Scotland Committees should attend a joint learning session on their statutory functions.

Action: Governance team to arrange a joint learning session on the statutory function of both the Wales and Scotland Committee.

7.6 The Chairwoman and Interim Chief Executive provided a summary of their meeting with the Shadow Secretary of State for Women and Equalities and the Labour Party race adviser. The Interim Chief Executive advised that a summary note of the discussion will be circulated to the Board.

Action: Private Office to circulate summary of meeting with the Shadow Secretary of State for Women and Equalities and the Labour Party race adviser to the Board.

7.7 Commissioners queried the funding status of the Race Legal Support fund. The Interim Chief Executive advised that whilst the Fund is now closed for new applications, the Commission will continue to support ongoing cases and provision for this been made within the 2024/25 budget. We have asked the Cabinet Office for a further £100k, which would allow us to re-open the Fund, but have no response as yet.

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7.8 The Chairwoman offered the thanks of herself and the Board to the Interim Chief Executive for her exceptional diligence whilst fulfilling this role, and advised that the Deputy Chief Executive has agreed to fill the role of Interim Chief Executive as of 1 April 2024. She noted that the advert for the substantive CEO position is now live and asked all present to encourage suitable applicants to apply, noting the closing date as 12 April 2024.

8. Final Business Plan and Budget 2024/25

8.1 The Board approved the 2024-25 Corporate Business Plan subject to their suggested amends and agreed that final sign-off for any minor changes will be between the Chairwoman and the Interim Chief Executive Officer.

8.2 The Board advised that they would like to see further detail on the allocation of resources, and clear numerical data on any graphics included.

8.3 Commissioners queried the focus on Artificial Intelligence (AI) in the plan and discussed the resources available to realistically carry out this function which is increasingly challenging in respect to the Equality Act 2010. The Chairwoman advised that she would be raising the issue of resources in her forthcoming meeting with the MfWE the next day. The Chairwoman advised that a development day on AI will be delivered to the Board and will help to develop a clear line of vision.

8.4 The Chairwoman advised that she would like to see greater detail on the work happening in each nation to advance learning and best practice. The Interim Chief Executive advised that functional plans have been developed for both the Wales and Scotland teams which demonstrate the specific work being taken forward in each nation, and that these can be shared with the Board.

Action: Functional plans for the Wales and Scotland teams to be shared with the Board.

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9. The Commission's Approach to Regulating AI

9.1 The Board agreed to the narrative set out in our draft response to the UK Government subject to their suggested amends. The Chairwoman will approve the final response.

9.2 The Board agreed not to take a final view on the future strategic approach until after the completion of their development day on AI.

9.3 Commissioners suggested that our response to the UK Government should:

a) clearly express the limitations of the Commission in regulating AI;
b) highlight the potential consequences of relying on computerised systems as demonstrated by the failings of the Horizon system used by the Post Office; and
c) suggest that the government consider innovative methods of funding AI work.

9.4 A Commissioner suggested that a possible approach could be convening those already working on the ethics of AI to explore potential Equality Act and Human Rights implications. Commissioners supported the merits of exploring this approach. The Chairwoman advised that the development day on AI will provide the basis for this discussion.

10. Ending Conversion Practices consultation

10.1 The Chairwoman thanked the Scotland Committee member for attending this item. The Scotland Commissioner noted that the Committee Member is assisting the Scotland Policy Team with further work on this consultation.

10.2 The Board agreed to the first proposed option for responding to the Scottish Government's consultation on ending conversion practices in Scotland and envisaged further engagement on more detailed proposals at later stages of the legislative process. Commissioners will approve the final draft response via correspondence.

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Action: Commissioners to approve the final draft response to the Scottish Governments consultation on ending conversion practices in Scotland via correspondence.

10.3 The Scotland Commissioner noted that the EHRC has no mandate to respond to any potential human rights issues in Scotland, however advised that the team will look to work in partnership with the Scottish Human Rights Commission on this.

10.4 The Scotland Committee member advised that the primary equality concern of himself and other members of the Scotland Committee is the lack of clarity on definitions used in the consultation including; conversion practices and harmful practices. He highlighted the importance of legal clarity, as this would create a new criminal offence. The Board agreed with this viewpoint.

11. [Redacted due to confidentiality].

12. Strategic Plan 2025-28 first draft

12.1 The Board approved the key components of the core narrative of the draft Strategic Plan, subject to suggested wording amendments.

12.2 The Board endorsed the three nations approach set out in the draft Strategic Plan, emphasising that opportunities where there is greater possibility of impact in devolved administrations than at GB level should be pursued.

12.3 The Board advised that the public consultation on the Strategic Plan should consider three priority areas rather than two. It was suggested that the third priority area should centre around justice issues. It was noted that both the Equality and Human Rights Monitor and the Human Rights Tracker suggests justice is a critical issue.

12.4 Commissioners requested follow up to improve their understanding of the EHRC Measurement Framework.

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Action: Head of Strategy to advise Commissioners on the function of the measurement framework.

12.5 The Board emphasised the need for the Strategic Plan to be 'lean' and sufficiently focussed to ensure that we are capable of delivery.

12.6 A Commissioner suggested that the Equality and Human Rights Monitor be developed on a more continuous basis of data publication, as opposed to a singular publication every five years. The Deputy Chief Executive advised that this is already an ambition. It was agreed to discuss this further.

13. Strategic Plan 2025-28 approach to consultation

13.1 The Board noted the consultation approach to the Strategic Plan 2025-28 paper.

13.2 The Board agreed that the Chairwoman and a discrete group of Commissioners would be responsible for the sign off of the high level draft of the Strategic Plan to be published at the launch of the consultation.

Action: Chairwoman and agreed Commissioners including Scotland and Wales Commissioner to meet or sign off the Strategic Plan products for consultation via correspondence.

14. AOB

14.1 The Board noted the Forward Schedule.

14.2 The Board advised that they will defer any decision on the publication of guidance on respectful discourse until there is further clarity on the date of the next general election.

14.3 The Chairwoman advised that the next Board meeting will be held in person on 14 May in London.

14.4 The Chairwoman advised on which Commissioners will attend the 1 May SCA interview.

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14.5 The Chairwoman advised that an operational transformation Board away day would be held in London, and asked Commissioner's to contact the Board Secretary with their availability as soon as possible.

14.6 A Commissioner raised that the Government's Equality Hub had that day published an Inclusion at Work Panel report which made specific recommendations to the EHRC. The Board agreed to discuss this at the May Board meeting.

Action: Board to discuss the Government's Inclusion at Work Panel report at the May Board meeting.